



BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[EPA-HQ-TRI-2016-0390; FRL-9953-68]

RIN 2070-AK16

Addition of Natural Gas Processing Facilities to the Toxics Release Inventory (TRI)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to add natural gas processing (NGP) facilities (also known as natural gas liquid extraction facilities) to the scope of the industrial sectors covered by the reporting requirements of section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA), commonly known as the Toxics Release Inventory (TRI) and section 6607 of the Pollution Prevention Act (PPA). Adding these facilities would meaningfully increase the information available to the public on releases and other waste management of listed chemicals from the natural gas processing sector and further the purposes of EPCRA section 313. EPA estimates that at least 282 NGP facilities in the U.S. would meet the TRI employee threshold (10 full-time employees or equivalent) and manufacture, process, or otherwise use (threshold activities) at least one TRI-listed chemical in excess of applicable threshold quantities. NGP facilities in the U.S. manufacture, process, or otherwise use more than 21 different TRI-listed chemicals, including n-hexane, hydrogen sulfide, toluene, benzene, xylene, and methanol. EPA expects that TRI reporting by U.S. NGP facilities would provide significant release and waste management data on these chemicals to the public.

DATES: Comments must be received on or before *[insert date 60 days after date of*

*publication in the **Federal Register**].*

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-TRI-2016-0390, at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods (e.g., mail or hand delivery), the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

Docket: The docket contains supporting information used in developing the proposed rule, comments on the proposed rule, and additional supporting information. A public version of the docket is available for inspection and copying between 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding federal holidays, at the U.S. Environmental Protection Agency, EPA Docket Center Reading Room, WJC West Building, Room 3334, 1301 Constitution Avenue, NW Washington, DC 20004. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* David Turk, Regulatory Development Branch, Office of Pollution Prevention and Toxics (7410M), Environmental Protection Agency, 1200 Pennsylvania Av., NW., Washington, DC 20460; 202- 566-1527; email address: turk.david@epa.gov, for specific information on this notice.

For general information contact: The Emergency Planning and Community Right-to-

Know Act (EPCRA) Hotline; telephone numbers: toll free at (800) 424-9346 (select menu option 3) or (703) 412-9810 in the Washington, DC Area and International; or toll free, TDD (800) 553-7672; or go to <http://www.epa.gov/superfund/contacts/infocenter>.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

Entities potentially regulated by this proposed action are those facilities that primarily engage in the recovery of liquid hydrocarbons from oil and gas field gases, including facilities that engage in sulfur recovery from natural gas, and which manufacture, process, or otherwise use chemicals listed at 40 CFR 372.65 and meet the reporting requirements of EPCRA section 313, 42 U.S.C. 11023, and PPA section 6607, 42 U.S.C. 13106. These facilities are categorized under Standard Industrial Classification (SIC) code 1321 and North American Industry Classification System (NAICS) code 211112. Note that the TRI regulations currently use the 2012 set of NAICS codes, as discussed further in Units II.D. and IV.C.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through <http://www.regulations.gov> or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40

CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting comments, see the commenting tips at <http://www.epa.gov/dockets/comments.html>.

II. Introduction

A. What is the statutory authority for this proposed rule?

This action is taken under EPCRA sections 313(b) and 328, 42 U.S.C. 11023(b) and 11048.

Specifically, EPCRA section 313(b)(1)(B), 42 U.S.C. 11023(b)(1)(B), states that the Agency may “add or delete Standard Industrial Codes for purposes of subparagraph (A), but only to the extent necessary to provide that each Standard Industrial Code is relevant to the purposes of this section.” In addition, Congress granted EPA broad rulemaking authority under EPCRA section 328, 28 U.S.C. 11048, which provides that the “Administrator may prescribe such regulations as may be necessary to carry out this chapter.”

B. What Are the Toxics Release Inventory Reporting Requirements and Whom Do They Affect?

EPCRA section 313, 42 U.S.C. 11023, requires certain facilities that manufacture, process, or otherwise use listed toxic chemicals in amounts above reporting threshold levels to report their environmental releases and other waste management quantities of such chemicals annually. These facilities must also report pollution prevention and recycling data for such chemicals, pursuant to PPA section 6607, 42 U.S.C. 13106. Congress established the original scope of TRI sectors subject to EPCRA section 313 reporting, requiring reporting by facilities in the manufacturing sectors covered by SIC codes 20 through 39. In 1997, EPA exercised its statutory authority under EPCRA to add SIC Codes to the scope of TRI, adding (with some limitations) metal mining, coal mining, electric utilities, commercial hazardous waste treatment,

chemicals and allied products-wholesale, petroleum bulk plants and terminals-wholesale, and solvent recovery services. (62 FR 23834, May 1, 1997).

Regulations at 40 CFR part 372, subpart B, require facilities that meet all of the following criteria to report:

- The facility has 10 or more full-time employee equivalents (i.e., a total of 20,000 hours worked per year or greater; see 40 CFR 372.3); and
- The facility is included in a NAICS Code listed at 40 CFR 372.23, or under Executive Order 13148, Federal facilities regardless of their industry classification; and
- The facility manufactures (defined by statute to include importing), processes, or otherwise uses any EPCRA section 313 (TRI) chemical in quantities greater than the established thresholds for the specific chemical in the course of a calendar year.

Facilities that meet the criteria must file a Form R report or, in some cases, may submit a Form A Certification Statement, for each listed toxic chemical for which the criteria are met. As specified in EPCRA section 313(a), the report for any calendar year must be submitted on or before July 1 of the following year. For example, reporting year 2015 data should have been postmarked on or before July 1, 2016.

The list of toxic chemicals subject to TRI reporting can be found at 40 CFR 372.65. This list is also published every year as Table II in the current version of the Toxics Release Inventory Reporting Forms and Instructions. The current TRI chemical list contains 594 individually listed chemicals and 31 chemical categories.

C. How does EPA decide to propose adding industry sectors to the coverage of TRI?

As described in Units II.A. and II.B., Congress provided EPA with explicit statutory authority to expand the categories of facilities required to report under EPCRA section 313, and

EPA exercised that authority to add sectors in 1997. (62 FR 23834, May 1, 1997). When adding these seven sectors, EPA considered three factors:

- *Chemical Factor* – Whether one or more toxic chemicals are reasonably anticipated to be present at facilities within the candidate industry group.
- *Activity Factor* – Whether facilities within the candidate industry group “manufacture,” “process,” or “otherwise use” these toxic chemicals.
- *Information Factor* – Whether facilities within the candidate industry group can reasonably be anticipated to increase the information made available pursuant to EPCRA section 313, or otherwise further the purposes of EPCRA section 313. This factor may include consideration of: (1) whether the addition of the candidate industry group would lead to reporting by facilities within that candidate industry group (*e.g.*, whether facilities within the candidate industry group would conduct activities that exceed the reporting thresholds in EPCRA section 313(f)); (2) whether facilities within the candidate industry group are likely to be subject to an existing statutory or regulatory exemption from the requirement to file a Form R; (3) whether submitted Form R reports from that industry group could be expected to contain release and waste management data; or (4) whether a significant portion of the facilities in the industry group would be expected to file a Form A. (*See* 61 FR 33588, 33594, June 27, 1996).

As explained in Units II.D. and III.A. of the 1997 Final Rule, EPA identified these three factors in determining whether the statutory standard in EPCRA section 313(b)(1)(B) would be met by addition of the candidate facilities.

D. What are North American Industry Classification System (NAICS) codes?

On April 9, 1997, the Office of Management and Budget (OMB) published in the **Federal Register** a final decision to adopt the NAICS for the U.S. (62 FR 17288.) The NAICS

industry classification system replaced the SIC system that government agencies had used for collecting statistical data and for other administrative and regulatory purposes. EPA transitioned to NAICS codes for TRI reporting purposes when it amended its regulations on June 6, 2006, to include NAICS codes in addition to SIC codes. (71 FR 32464.) The list of TRI NAICS codes that appeared in the final rule was developed from the OMB 2002 NAICS revision. OMB revises NAICS Codes every 5 years. Accordingly, EPA updated the list of TRI NAICS codes in 2008 (73 FR 32466, June 9, 2008) (FRL-8577-1) to incorporate changes to the TRI NAICS codes resulting from the OMB 2007 NAICS revision. In 2013, EPA updated the list of TRI NAICS codes to conform to the OMB 2012 NAICS revision (78 FR 42875, July 18, 2013) (FRL-9825-8). On August 8, 2016, OMB published a notice to adopt, with one minor exception, the recommended NAICS revisions for 2017 (81 FR 52584). EPA anticipates promulgating a separate rule to align the list of NAICS codes TRI uses to the OMB NAICS revisions for 2017. An alignment of the NAICS codes used by TRI would not alter the scope of this proposed addition of NGP facilities. Because TRI currently uses the set of NAICS codes for 2012, this action refers to the set of NAICS codes for 2012 unless otherwise stated, as further discussed in Unit IV.C.

E. Why do some natural gas processing facilities already submit TRI reporting forms to EPA?

Some NGP facilities are already subject to TRI reporting requirements because NGP facilities that primarily recover sulfur from natural gas are part of a manufacturing sector that was originally subjected to reporting by Congress.

Specifically, the scope of TRI sectors subject to reporting includes SIC code 2819 (Industrial Inorganic Chemicals, Not Elsewhere Classified), which was one of the manufacturing sectors in SIC 20-39 originally required to report to TRI by Congress. SIC code 2819 crosswalks

to several manufacturing sector NAICS codes, including 211112 (Natural Gas Liquid Extraction), but only to the extent that it includes facilities that primarily engage in sulfur recovery from natural gas.

Thus, when EPA began to use NAICS codes for TRI reporting purposes, the Agency listed NAICS 211112 with a qualifier to limit TRI coverage of the sector to facilities that fit SIC code 2819. *See* 40 CFR 372.23(b) (211112—Natural Gas Liquid Extraction): “Limited to facilities that recover sulfur from natural gas (previously classified under SIC 2819, Industrial Inorganic chemicals, NEC (recovering sulfur from natural gas)).”

III. Background

By a letter dated October 24, 2012, the Environmental Integrity Project (EIP), together with 16 other organizations, and later joined by two additional organizations (collectively, Petitioners), submitted a Petition to EPA pursuant to section 553(e) of the Administrative Procedure Act (APA) to add the Oil and Gas Extraction industrial sector (SIC code 13) to the scope of industrial sectors covered by the reporting requirements of the TRI. The Petition and related documents can be found in Docket ID No. EPA-HQ-TRI-2013-0281 at <http://www.regulations.gov>.

A. What did the petition request?

The Petitioners requested that EPA exercise its discretionary TRI sector addition authority to add the Oil and Gas Extraction sector, as defined by SIC code 13. SIC 13 is broad in scope, comprising the following subsectors:

- Crude Petroleum and Natural Gas (SIC 1311);
- Natural Gas Liquids (SIC 1321);
- Drilling Oil and Gas Wells (SIC 1381);

- Oil and Gas Field Exploration Services (SIC 1382); and
- Oil and Gas Field Services, Not Elsewhere Classified (SIC 1389).

These SIC-defined subsectors correspond to the following NAICS sectors, in whole or in part:

- Crude Petroleum and Natural Gas Extraction (NAICS 211111);
- Natural Gas Liquid Extraction (NAICS 211112);
- Drilling Oil and Gas Wells (NAICS 213111);
- Support Activities for Oil and Gas Operations (NAICS 213112);
- Oil and Gas Pipeline and Related Structures Construction (NAICS 237120);
- Site Preparation Contractors (NAICS 238910); and
- Geophysical Surveying and Mapping Services (NAICS 541360).

By requesting that EPA extend the TRI reporting requirements to SIC 13, the Petition requested that EPA add to TRI the SIC codes 1311, 1321, 1381, 1382, and 1389, along with the relevant portion of each corresponding NAICS code.

B. How did EPA respond?

On October 22, 2015, EPA granted, in part, the Petition insofar as it requested that EPA commence the rulemaking process to propose adding NGP facilities to the scope of TRI. EPA denied the remainder of the Petition. EPA's response to the Petition, including a full explanation of the Agency's rationale, can be found in Docket ID No. EPA-HQ-TRI-2013-0281 and as a reference in the docket for this proposal in Docket ID No. EPA-HQ-TRI-2016-0390 (Reference (Ref.) 1).

IV. Proposed Addition of Natural Gas Processing Facilities to the Toxics Release Inventory

A. Why is EPA proposing to add NGP facilities to the scope of TRI?

According to a triennial survey of NGP facilities by the U.S. Energy Information Administration (EIA-757 survey), described further in an economic analysis EPA prepared for this rulemaking, there were 517 NGP facilities in the lower 48 states as of 2012 (Ref. 2). As explained more fully later in this document, EPA estimates that over half of these facilities would annually meet TRI reporting thresholds for at least one of more than 21 different TRI-listed chemicals and, if covered by the reporting requirements of TRI, would be required to submit TRI information to EPA (Ref. 2). The information likely to be obtained from these facilities is not readily available elsewhere.

As discussed previously, EPA generally considers three factors when deciding whether to add an industrial sector to the scope of the industrial sectors covered by TRI:

1. *Chemical Factor* – Whether one or more toxic chemicals are reasonably anticipated to be present at facilities within the candidate industry group.

2. *Activity Factor* – Whether facilities within the candidate industry group “manufacture,” “process,” or “otherwise use” these toxic chemicals.

3. *Information Factor* – Whether facilities within the candidate industry group can reasonably be anticipated to increase the information made available pursuant to EPCRA section 313, or otherwise further the purposes of EPCRA section 313.

NGP facilities meet these three factors:

- *Chemical and Activity factors*: TRI-listed chemicals are present at NGP facilities (Ref. 2).
- 2). Using information from Canada’s National Pollutant Release Inventory (NPRI), a program analogous to TRI that already covers NGP facilities, EPA estimates that NGP facilities in the U.S. manufacture, process, or otherwise use more than 21 different TRI-listed chemicals (Ref. 2). These chemicals include n-hexane, hydrogen sulfide, toluene, benzene, xylene, and methanol

(Ref. 2).

- *Information factor:* EPA estimates that between 282 and 444 NGP facilities in the U.S. would meet the TRI employee threshold (10 full-time employees or equivalent) and manufacture, process, or otherwise use at least one TRI-listed chemical in excess of applicable threshold quantities (Ref. 2). Furthermore, based upon information submitted to Canada's NPRI and the 2012 EIA-757 survey of NGP facilities, EPA expects that TRI reporting by U.S. NGP facilities would provide significant release and waste management data (Ref. 2). Therefore, the addition of NGP facilities to TRI would meaningfully increase the information available to the public and further the purposes of EPCRA section 313.

B. Scope of proposed addition.

NGP facilities are stationary surface facilities that receive gas from a gathering system that supplies raw natural gas from many nearby wells. These facilities prepare natural gas (composed primarily of methane) to industrial or pipeline specifications and extract heavier liquid hydrocarbons from the raw or field natural gas. During this process, natural gas liquids (NGLs) (i.e., heavier hydrocarbons than methane) and contaminants (e.g., hydrogen sulfide, carbon dioxide, and nitrogen) are separated from the natural gas stream, resulting in processed pipeline quality natural gas. NGLs are fractionated on-site into isolated streams (e.g., ethane, propane, butanes, natural gasoline) or shipped off-site for subsequent fractionation or other processing. Hydrogen sulfide is often either disposed through underground injection or reacted into sulfuric acid or elemental sulfur, while carbon dioxide and nitrogen may be emitted to the atmosphere. The processed pipeline-quality natural gas is then transferred to consumers via intra- and inter-state pipeline networks. NGLs are primarily used as feedstocks by petrochemical manufacturers or refineries.

SIC 1321 (Natural Gas Liquids) and NAICS 211112 (Natural Gas Liquid Extraction) comprise establishments that recover liquid hydrocarbons from oil and gas field gases (see discussion in Unit II.E.). NAICS 211112 includes facilities that primarily recover sulfur from natural gas — such facilities already report TRI data to EPA because they are in SIC 2819 (Industrial Inorganic Chemicals, Not Otherwise Classified), which is a manufacturing sector already covered by TRI.

Current regulations only require NAICS 211112 facilities that recover sulfur from natural gas to report TRI data (i.e., facilities in SIC 2819). Specifically, 40 CFR 372.23(b), which covers NAICS codes that correspond to SIC codes 20 through 39, lists NAICS 211112, but states: “Limited to facilities that recover sulfur from natural gas (previously classified under SIC 2819, Industrial Inorganic chemicals, NEC (recovering sulfur from natural gas)).” Removing that limitation and adding SIC 1321 to the scope of industry sectors covered by TRI would expand TRI coverage to include all NGP facilities that meet TRI-reporting thresholds.

To add the facilities contemplated by this proposed rule to the scope of industrial sectors that TRI covers, EPA is proposing to:

- Add SIC code 1321 to 40 CFR 372.23(a);
- Remove the “Exceptions and/or limitations” language from the Code of Federal Regulations (CFR) text for NAICS code 211112 for NAICS codes that correspond to SIC codes 20 through 39 in 40 CFR 372.23(b); and
- Add NAICS code 211112 to the CFR text for NAICS codes that correspond to SIC codes other than SIC codes 20 through 39 in 40 CFR 372.23(c).

It would be necessary to list NAICS 211112 in both subsections (b) and (c) of 40 CFR 372.23 for two reasons: (1) 40 CFR 372.23(b) lists NAICS codes that crosswalk to SIC codes

within the original scope of TRI sectors subject to Section 313 reporting (SIC Codes 20-39), and (2) 40 CFR 372.23(c) lists NAICS codes that crosswalk to SIC codes not within the original scope of TRI sectors. Because NAICS 211112 includes a SIC code in the original scope of TRI sectors (SIC 2819) and a SIC code not in the original scope of TRI sectors (SIC 1321), EPA proposes that NAICS 211112 be listed under both subsections to provide additional clarity for the crosswalk.

This proposal does not seek to add to TRI coverage natural gas field facilities that only recover condensate from a stream of natural gas, lease separation facilities that separate condensate from natural gas, or natural gas pipeline compressor stations that supply energy to move gas through transmission or distribution lines into storage. Additional examples of operations that this proposal does not intend to add to TRI coverage include Joule-Thompson valves, dew point depression valves, and isolated or standalone Joule-Thompson skids. The industrial operations described in this paragraph often occur at or close to extraction sites and are typically classified under NAICS codes other than 211112 (e.g., NAICS 211111 (Crude Petroleum and Natural Gas Extraction)), and thus are not within the scope of the proposed NAICS code addition.

However, the term “facility” is defined by EPCRA section 329(4) as “all buildings, equipment, structures, and other stationary items which are located on a single site or on contiguous or adjacent sites and which are owned or operated by the same person (or by any person which controls, is controlled by, or under common control with, such person).” 42 U.S.C. 11049(4). Accordingly, operations described in the previous paragraph could be part of a single “facility” with TRI reporting and recordkeeping requirements if they are contiguous or adjacent to “buildings, equipment, structures, and other stationary items” with a common owner or

operator that are in a covered TRI industrial sector.

C. How do recent updates to NAICS codes impact this proposal?

Every 5 years the OMB updates the NAICS codes to “clarify existing industry definitions and content, recognize new and emerging industries, and correct errors and omissions.” (80 FR 46480, August 4, 2015). EPA updates its TRI regulations to align with OMB revisions to the NAICS codes (*see, e.g.*, 78 FR 42875, July 18, 2013). OMB published a “Notice of Solicitation of Comments on the Economic Classification Policy Committee’s Recommendations for the 2017 Revision of the North American Industry Classification System” on August 4, 2015 (80 FR 46480), and published a Notice of Final Decision revising the NAICS codes “for reference years beginning on or after January 1, 2017” on August 8, 2016 (81 FR 52584). As noted in Unit II.D., EPA anticipates promulgating a separate rule to align the list of NAICS codes TRI uses to the OMB NAICS revisions for 2017.

In OMB’s revisions for the 2017 NAICS codes, facilities performing activities involving natural gas that currently classify under NAICS 211111 (Crude Petroleum and Natural Gas Extraction) and NAICS 211112 (Natural Gas Liquid Extraction) will classify under a new NAICS code: 211130 (Natural Gas Extraction).

This proposed rule to add NGP facilities to the scope of the TRI proposes to add facilities that primarily engage in the recovery of liquid hydrocarbons from oil and gas field gases (and to retain facilities that primarily engage in sulfur recovery from natural gas, which are already covered facilities), as described in Unit IV.A. This proposed rule would accomplish this, based on the 2012 NAICS codes currently used by the TRI regulations, by adding SIC code 1321 to 40 CFR 372.23(a), removing the “exceptions and/or limitations” from NAICS code 211112 currently found in 40 CFR 372.23(b), and adding NAICS code 211112 to 40 CFR 372.23(c). If

EPA updates the NAICS codes used for TRI reporting purposes to align with the OMB revisions for 2017 before EPA issues a final rule adding NGP facilities to TRI, then if EPA issues a final rule adding NGP facilities to TRI, that final rule will reflect the appropriate new NAICS code (i.e., NAICS 211130), qualified by any appropriate “exceptions and/or limitations,” to add NGP facilities, as described in Unit IV.A., and would incorporate changes, if any, to the proposed scope of the addition, as appropriate in light of comments received on the proposal. That is, the actual scope of the addition to TRI here being proposed would not be affected by the 2017 OMB NAICS revision, or by any EPA update of its TRI regulations to align with the 2017 OMB revision.

V. References

The following is a listing of the documents that are specifically referenced in this document. For assistance in locating reference documents, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

1. USEPA. Formal Response to October, 24, 2012, Petition to Add the Oil and Gas Extraction Industry, Standard Industrial Classification Code 13, to the List of Facilities Required to Report under Section 313 of the Emergency Planning and Community Right-to-Know Act. October 22, 2015.

2. USEPA, OPPT. Economic Analysis of the Proposed Addition of Natural Gas Processing Facilities to the Toxics Release Inventory. August 11, 2016.

3. USEPA, OPPT. Supporting Statement for an Information Collection Request (ICR) Under the Paperwork Reduction Act (PRA). Proposed Rule ICR; Addition of Natural Gas Processing Facilities to the Toxics Release Inventory (TRI). EPA ICR No. 2560.01; OMB Control No. 2070-[NEW]. November 2016.

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <http://www2.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). EPA prepared an economic analysis of the potential costs and benefits associated with this action, which is available in the docket (Ref. 2).

B. Paperwork Reduction Act (PRA)

The information collection activities in this proposed rule have been submitted for approval to OMB under the PRA, 44 U.S.C. 3501 *et seq.* The Information Collection Request (ICR) document that EPA prepared has been assigned EPA ICR No. 2560.01; OMB Control No. 2070-[NEW] (Ref. 3). You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here.

This action would impose an incremental information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control numbers 2025-0009 and 2050-0078. This proposal would not alter the reporting and recordkeeping requirements for facilities that currently have regulatory requirements related to TRI reporting. However, this proposal would require all facilities that classify under NAICS 211112 to consider TRI reporting requirements regardless of whether or not they primarily recover sulfur from natural gas. Accordingly, if EPA adds this

industrial sector to the scope of industries covered by TRI, these facilities would need to adhere to reporting and recordkeeping requirements should they trigger TRI reporting.

Currently, the facilities subject to the reporting requirements under EPCRA 313 and PPA 6607 may use either the EPA Toxic Chemicals Release Inventory Form R (EPA Form 1B9350-1), or the EPA Toxic Chemicals Release Inventory Form A (EPA Form 1B9350-2). The Form R must be completed if a facility manufactures, processes, or otherwise uses any listed chemical above threshold quantities and meets certain other criteria. For the Form A, EPA established an alternative threshold for facilities with low annual reportable amounts of a listed toxic chemical. A facility that meets the appropriate reporting thresholds, but estimates that the total annual reportable amount of the chemical does not exceed 500 pounds per year, can take advantage of an alternative manufacture, process, or otherwise use threshold of 1 million pounds per year of the chemical, provided that certain conditions are met, and submit the Form A instead of the Form R. In addition, respondents may designate the specific chemical identity of a substance as a trade secret pursuant to EPCRA section 322, 42 U.S.C. 11042, 40 CFR part 350.

OMB has approved the reporting and recordkeeping requirements related to Forms A and R, supplier notification, and petitions under OMB Control number 2025-0009 (EPA Information Collection Request (ICR) No. 1363) and those related to trade secret designations under OMB Control number 2050-0078 (EPA ICR No. 1428). As provided in 5 CFR 1320.5(b) and 1320.6(a), an Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers relevant to EPA's regulations are listed in 40 CFR part 9, and displayed on the information collection instruments (e.g., forms, instructions).

Respondents/affected entities: Entities potentially affected by this ICR include facilities

primarily engaged in natural gas processing.

Respondent's obligation to respond: Respondents are obligated to respond or report to EPA (42 U.S.C. 11023).

Estimated number of respondents: 282 - 444

Frequency of response: Annually

Total estimated burden: Up to 250,034 hours in the first year and up to 119,064 hours every subsequent year. Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: Up to \$13,584,347 in the first year and up to \$6,468,747 every subsequent year, includes \$0 annualized capital or operation & maintenance costs.

Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden to EPA using the docket identified at the beginning of this rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs via email to *OIRA_submission@omb.eop.gov*, Attention: Desk Officer for the EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after receipt, OMB must receive comments no later than *[insert date 30 days after date of publication in the **Federal Register**]*. EPA will respond to any ICR-related comments in the final rule.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA, 5 U.S.C. 601 *et seq.* The small entities subject to the requirements of this action are natural gas processing facilities. The Agency has linked the 282 - 444 facilities estimated to be impacted by this action to 76 - 90 parent entities, 32 - 41 of which qualify as small businesses as defined by the RFA (Ref. 2). No small governments or small

organizations are expected to be affected by this action. All 32 – 41 small businesses that would be affected by this action are estimated to incur annualized cost impacts of less than 1%. EPA's detailed analysis of the impacts on small entities is located in the EPA economic analysis (Ref. 2).

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate of \$100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. EPA's economic analysis indicates that the total industry reporting and recordkeeping burden for collecting this information would be between \$8,624,018 and \$13,584,347 in the first year (Ref. 2). In subsequent years, the total industry reporting and recordkeeping burden for collecting this information is estimated to be between \$4,106,642 and \$6,468,747 (Ref. 2). The total annualized cost of the proposed rule to industry and EPA is estimated to be approximately \$4,634,000 to \$7,300,000 with a 3% discount rate and approximately \$4,721,000 to \$7,437,000 with a 7% discount rate (Ref. 2). EPA's analysis shows that no small government owns or operates an NGP facility that would report under EPCRA section 313.

E. Executive Order 13132: Federalism

This action does not have federalism implications, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000), because this action relates to toxic chemical reporting under

EPCRA section 313, which primarily affects private sector facilities. No facilities owned or operated by tribal governments are expected to classify under SIC 1321 or NAICS 211112.

G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not a “significant energy action” as defined in Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not likely to have a significant adverse effect on the supply, distribution or use of energy. NGP facilities would be subject to the requirements of this proposal; however, this proposal would not impact how these facilities operate but rather would require facilities that trigger TRI reporting requirements to submit annual reports on chemicals for which they trigger reporting requirements. Moreover, the impact this action could cause is minor. EPA's economic analysis for this action indicates that all entities that would be impacted are estimated to incur annualized cost impacts of less than 1% (Ref. 2).

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve any technical standards, and is therefore not subject to considerations under NTTAA section 12(d), 15 U.S.C. 272 note.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority

Populations and Low-Income Populations

This action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). This action does not address any human health or environmental risks and does not affect the level of protection provided to human health or the environment. This action adds an industry sector to the EPCRA section 313 reporting requirements. By adding an industry to the list of industry sectors subject to reporting under EPCRA section 313, EPA would be providing communities across the U.S. (including minority populations and low income populations) with access to data which they may use to seek lower exposures and consequently reductions in chemical risks for themselves and their children. This information can also be used by government agencies and others to identify potential problems, set priorities, and take appropriate steps to reduce any potential risks to human health and the environment. Therefore, the informational benefits of the action will have a positive impact on the human health and environmental impacts of minority populations, low-income populations, and indigenous peoples.

List of Subjects in 40 CFR Part 372

Environmental protection, Community right-to-know, reporting and recordkeeping requirements, and Toxic chemicals.

Dated: December 27, 2016.

Gina McCarthy,

Administrator.

Therefore, it is proposed that 40 CFR part 372, be amended as follows:

PART 372—[AMENDED]

1. The authority citation for part 372 continues to read as follows:

Authority: 42 U.S.C. 11023 and 11048.

2. Amend § 372.23 by:

a. In paragraph (a) adding alphabetically an entry for “1321”;

b. In paragraph (b) removing “211112—Natural Gas Liquid Extraction” from the table;

c. In paragraph (c) adding alphabetically an entry for “211112- Natural Gas Liquid Extraction”.

The additions to read as follows:

§ 372.23 SIC and NAICS codes to which this Part applies.

(a) * * *

Major group or industry code	Exceptions and/or limitations
* * *	* * *
1321	
* * *	* * *

* * *

(c) * * *

Subsector code or industry code	Exceptions and/or limitations
* * *	* *
211112—Natural Gas Liquid Extraction	
* * *	* *

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